PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 29250-000324/US	

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] On _____ Signature_____ Typed or printed name _____	Application Number 09/407,878	Filed September 29, 1999
	First Named Inventor Gaspar HERNANDEZ, III	
	Art Unit 2176	Examiner Almari YUAN

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages of attachments are provided.

I am the

☐ applicant/inventor

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record.
Registration number 37,275.

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

_____
Signature

_____
Thomas S. Auchterlonie
Typed or printed name

_____
703-688-8000
Telephone number

_____
September 19, 2005
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Gaspar HERNANDEZ, III
Application No.:	09/407,878
Filed:	September 29, 1999
Group:	2176
Examiner:	Almari YUAN
For:	TECHNOLOGY TO TRANSLATE NON-TEXT DISPLAY GENERATION DATA REPRESENTING AN INDICATOR INTO TEXT VARIABLES
Att'y Docket No.:	29250-000324/US

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314
Mail Stop AF

September 19, 2005

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Dear Sir:

Further to the concurrent filing of the attached Notice of Appeal, the following remarks are submitted in connection with the above-identified patent application under the Pilot Program for Pre-Appeal Brief Conference (Off. Gaz. Patent & Trademark Office, Vol. 1296, No. 2, July 12, 2005).

Claims 1-45 are pending in the current application. Of those, claims 1, 18, 19 and 20 are independent.

Rejection For Which Conference Is Requested

A Pre-Appeal-Brief Conference is requested to review the rejection of claims 1-45 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,930,399 to Kadyk et al. (the '399 patent) in view of U.S. Patent No. 6,014,616 to Kim (the '616 patent).[1]

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[1] The statement of rejection begins on page 2 of the Final Office (mailed May 18, 2005), with the Examiner's rebuttal arguments beginning on page 9 thereof.

Argument No. 1[2]

A distinction of claim 1 over the '399 patent (and thus its combination with the '616 patent) is translating the extracted groups of <u>non-text</u> data into groups of <u>text</u> data.

The translation taught by the '399 patent (according to the above-quoted passage relied upon by the Examiner) translates unprintable ASCII characters into a codes formed of printable ASCII characters. Printable or not, all ASCII characters are text data. The "first 32 [ASCII] codes (numbers 0 – 31 decimal) [are reserved] for control characters: codes originally intended not to carry character information, but rather to control devices (such as printers) that make use of ASCII.[3] Such control codes, however, are text data just as much as the codes in the printable subset of ASCII are text data. For example, ASCII code number ten (10) denotes the "line feed" function (which causes a printer to advance its paper), and character twenty-seven (27) denotes the "escape" key often found in the top left corner of common keyboards. It is unreasonable to interpret the ASCII control codes as not being text data.

The <u>'399 patent</u> teaches <u>translating</u> a <u>first arrangement of ASCII</u> characters <u>into</u> a <u>second arrangement of ASCII</u> characters, i.e., translating <u>text data into text data</u>. It is unreasonable to treat ASCII control characters as non-text data and ASCII printable characters as text data. Thus, a distinction of claim 1 over the '399 patent is translating the extracted groups of <u>non-text data</u> into groups of <u>text data</u>.

Argument No. 2

The Examiner asserts (rebuttal arguments, page 10) that the '616 patent teaches (at 52-55 of col. 2) a lookup table with hexadecimal values assigned to encoded characters and contends that translation from hexadecimal to ASCII satisfies the claimed aspect of translating. This argument is flawed.

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[2]   A detailed discussion of Argument No. 1 can be found, e.g., on pages 11-13 of the Rule 111 Amendment filed December 20, 2004.
[3]   From URL = http://en.wikipedia.org/wiki/ASCII#Overview.

ASCII characters can be <u>represented</u> in variety of number formats, e.g., decimal, binary, hexadecimal, etc. For example, see the following excerpt of the ASCII character set.[4]

Character Name	Char	Code	Decimal	Binary	Hex
Ampersand	&	Shift 7	38	00100110	26
Single Quote	'	'	39	00100111	27
Left Parenthesis	(	Shift 9	40	00101000	28
Right Parenthesis	)	Shift 0	41	00101001	29
⋮	⋮	⋮	⋮	⋮	⋮
Zero Digit	0	0	48	00110000	30
One Digit	1	1	49	00110001	31
Two Digit	2	2	50	00110010	32
⋮	⋮	⋮	⋮	⋮	⋮
Question Mark	?	Shift /	63	00111111	3F
At Sign	@	Shift 2	64	01000000	40
Capital A	A	Shift A	65	01000001	41
Capital B	B	Shift B	66	01000010	42
⋮	⋮	⋮	⋮	⋮	⋮

In the above-quoted table, e.g., the code for a question mark is sixty-three in decimal notation and 3F in hexadecimal notation. The particular number format merely is a matter of <u>representation</u>, NOT <u>encodation</u>.

Similarly, in the '399 patent, e.g., Figs. 8-9, representing a "current byte" in hexadecimal notation" and an "output byte" in hexadecimal notation is not (as is asserted) the "encoding of hexadecimal into ASCII character." Rather, it is simply <u>representation in hexadecimal</u> notation

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[4]   From URL = http://www.pcguide.com/res/tablesASCII-c.html.

of unprintable ASCII character codes values and <u>representation in hexadecimal</u> notation of printable ASCII character code values. At least for this reason, the Examiner's § 103 rejection is improper.

Argument No. 3[5]

Another distinction of claim 1 over the '616 patent (and thus its combination with the '399 patent) are the claimed identifying and converting steps.

The '616 patent teaches (in the lines immediately preceding those cited by the Examiner, namely at lines 52-56) that once a language has been selected, the operating system then responsively changes the color and/or shape of the cursor to identify the language in use.[6]

It is not Applicant's position that the '616 patent does not disclose a variable of some sort that represents indicator color and/or shape. Nor is it Applicant's position that the '616 patent does not disclose determining appropriate values for the color/shape variable based upon the selected language.

Rather, Applicant submits that whatever values might be determined by the '616 patent for the color/shape variable are not a <u>group</u> of text data, where that group has been <u>identified</u> <u>among groups</u> of text data as corresponding to the desired indicator, and where the groups of text data have been <u>translated from groups of non-text data,</u> and further where the groups of non-text data were <u>extracted from a file of non-text display generation data.</u>

The Examiner oversimplifies the acknowledged difference between claim 1 and the '399 patent for which the '619 patent is relied upon. Doing so, in effect, permits the Examiner to ignore limitations of the present claim language. But that is improper.

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[5]   A detailed discussion of Argument No. 1 can be found, e.g., on page 14 of the Rule 111 Amendment filed December 20, 2004.

[6]   Applicant assumes for the sake of argument that this is done by the operating system choosing an appropriate value for a variable that represents the color of the indicator color and/or the shape thereof.

CONCLUSION

In view of the above remarks, Appellant respectfully requests that the Pre-Appeal Brief Conference find in favor of Applicant's positions and arrange for withdrawal of the above-noted rejections, culminating in the sending of a Notice of Allowance of the pending claims.

Should there be any outstanding matters that need to be resolved in the present application, the Pre-Appeal-Brief Conference is requested to contact the undersigned at the indicated telephone number.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Very truly yours,

HARNESS, DICKEY & PIERCE, PLC

By

Thomas S. Auchterlonie
Reg. No. 37,275

TSA/tsa

P.O. Box 8910
Reston, VA 20195
(703) 668-8000